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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,933	07/28/2000	Toshiaki Suzuki	500.37418CX1	3909
20457	7590	11/24/2004	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-9889			FERRIS, DERRICK W	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/628,933	Applicant(s) SUZUKI ET AL.	
	Examiner Derrick W. Ferris	Art Unit 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/389,455.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/30/2004 has been entered.

Response to Amendment

2. **Claims 11 and 13** as amended are still in consideration for this application. Applicant has amended claim 11. Applicant has canceled claim 12.

3. Examiner does **not withdraw** the obviousness rejection to *Tiernan* in view of *Northcutt* for Office action filed **05/28/2004** for **claim 11**. In addressing applicant's arguments in the response filed **05/10/04**, applicant has amended the claims to further clarify that the length of each RTP packet is not greater than a maximum data length at which a UDP packet is transmittable, thereby permitting a UDP header to be added to said each RTP packet to form a UDP packet by said second packetizing means. Examiner notes that the above limitation is inherently taught by the reference as part of encapsulation. As such, examiner notes the references used in combination. In particular, *Tiernan* teaches a converting means with respect to elementary streams (ES) and packetized elementary streams (PES). *Tiernan* further teaches that such streams can be further encapsulated in IP. However, *Tiernan* does not further teach the concept of encapsulation of RTP/UDP/IP (i.e., how the streams are encapsulated in IP). *Northcutt* teaches the above limitation at issue for a video stream (such as an MPEG stream).

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Thus the references in combination teach a first and second packetizing means. With respect to the newly added limitation, examiner notes that the encapsulated RTP packet must be less than a maximum size of a UDP packet otherwise the UDP packet violates the inherent structure and properties defined for a UDP packet. In other words, for the sake of argument, if such a structure were to exist then said structure could not be further encapsulated into a UDP packet because the size would exceed the maximum allowable size of the UDP packet. Thus one could not encapsulate RTP/UDP/IP which would teach away from the applied reference. Thus applicant's further recited step is inherent in going from RTP to UDP.

As previously noted, claim 13 is considered allowable. Although the same references are applied, the examiner had made the current Office action non-final since applicant paid for a continued examination.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,172,988 B1 to *Tiernan et al.* ("*Tiernan*") in view of U.S. Patent No. 6,185,737 to *Northcutt et al.* ("*Northcutt*").

As to **claim 11**, *Tiernan* discloses the limitations of converting means for converting layer-coded data belonging to each of a plurality of layers of an elementary stream (ES) to packetized elementary stream (PES) data (e.g., see figure 8). In particular,

Tiernan teaches converting the ES data so that only ES data belonging to the same layer is contained in a single PES packet which transmits an ES data.

Tiernan is silent or deficient to the further limitation of a first packetizing means for packetizing the PES data to a RTP packet for each layer data and a second packetizing means for packetizing the RTP packet to a UDP packet for each layer data. In particular, *Tiernan* teaches that the same process can be applied to IP but is silent how this is accomplished (e.g., see column 9, lines 30-37). Examiner notes a reasonable but broad interpretation of “identifier”. As such, see e.g., column 4, lines 53-65 of *Tiernan* where messages can be optionally addressed (i.e., provided with an identifier).

Northcutt teaches the further recited limitation above at column 3, lines 55-67 (in reference to applicant’s figure 3).

Examiner notes that it would have been obvious to one skilled in the art prior to applicant’s invention to include a first packetizing means for packetizing the PES data to a RTP packet for each layer data and a second packetizing means for packetizing the RTP packet to a UDP packet for each layer data. In particular, one skilled in the art would be motivated to modify *Tiernan* to include the further limitation of encapsulating PES information into RTP/UDP/IP for transport over an IP network as taught by *Northcutt*. The suggestion or motivation for doing so would have been to transport MPEG data over IP using RTP/UDP/IP respectively. In particular, *Northcutt* cures the above-cited deficiency by providing a motivation found at column 6, lines 7-25.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123.


The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick W. Ferris
Examiner
Art Unit 2663


DWE


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 11/22/09